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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,785	03/13/2001	Russell E. Evans	259/225	2980

22249 7590 09/05/2002

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EXAMINER

FINEMAN, LEE A

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 09/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/804,785

Applicant(s)

EVANS ET AL.

Examiner

Lee Fineman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2002 and 19 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 13-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of invention I drawn to Species I in Paper No. 5 is acknowledged. In order to expedite the examination, the species requirement of Invention I is withdrawn. However, it is noted that MPEP 802.01 states that species under a genus which species are not usable together as disclosed are independent and the Applicant failed to specifically set forth where it was disclosed in the specification that all the species were usable together.

The Applicant argues that because some claims are generic to several species that no mutually exclusive subject matter exists. Generic claims do not destroy the existence of mutually exclusive limitations. The Applicant is directed to the specific identification of the mutually exclusive subject matter in the restriction election requirement (e.g. Method of forming polarizer with sidefill ports). As such mutually exclusive subject matter indeed exists.

Regarding the allegation that claim 13 is generic. The Examiner disagrees; in that species X, XI, XII are directed to a molding method (claims 23-30). Species I-V, which include claim 13, are directed to a bonding method. As such, claim 13 is not generic to species X, XI, XII.

The requirement is made FINAL. Accordingly, claims 1-12 along with new claims 31-35 will be examined on the merits as follows.

2. Claims 13-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to the nonelected Invention II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference sign 100. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Objections***

4. Claim 10 is objected to because of the following informalities: In claim 10, line 2 "the reaction product" lacks antecedent basis. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 5-12, and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum, US Patent No. 4,873,029 in view of Slagel, US Patent No. 6,127,505.

Blum discloses an optical-quality polarized part comprising an optical construct, which is a lens substrate, (fig 5, fig. 7) and a polarizer having a first side and an opposing second side (33) integrally bonded to the optical construct and comprising a wafer (column 6, lines 15-19) and a hard coating integrally bonded to the optical construct (column 4, lines 32-35) or the polarizer

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(column 5, lines 39-47). Blum does not disclose the optical construct comprising a high impact polyurethane-based optical material.

Slagel teaches an optically clear high impact polyurethane-based optical material (column 2, lines 4-10) comprising a polyurethane prepolymer including a dye or colorant (column 6, lines 7-10, table 1) wherein the prepolymer comprises up to about 12 molar percent of trimethylol propane (column 5, line 65-column 6 line 5), and wherein the high impact polyurethane-based optical material comprises a reaction product of (a) a polyurethane prepolymer prepared by reaction of a methylenebis (cyclohexyl isocyanate) with an OH-containing intermediate having a weight average molecular weight between about 500 and about 1,200 selected from the group consisting of polyester glycols, polyether glycols, and mixtures thereof in an equivalent ratio of 2.5 to 4.0 NCO/1.0 OH and (b) an aromatic diamine curing agent in an equivalent ratio of about .9 to 1.1  $\text{NH}_2$ /1.0 NCO (column 1, line 59-column 2, line 3 and column 3, lines 16-21).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the optical material of Slagel to make the optical construct of Blum to provide impact resistance.

7. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum in view of Slagel as applied to claim 1 above, and further in view of Kausch et al., US Patent No. 6,113,811.

Blum in view of Slagel discloses the claimed invention except for the polarizer comprising a polyethylene terephthalate film or at least one layer supporting a polyvinyl alcohol

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film. Kausch et al. teaches a polarizer comprising a polyethylene terephthalate film (column 10, lines 52-57) and a layer supporting a polyvinyl alcohol film (column 2, lines 36-37).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the polarizer of Kausch in the optical-quality polarized part of Blum in view of Slagel to reduce glare (column 1, line 13).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (703) 305-5414. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on (703) 308-1687. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.



LAF

August 29, 2002

  
**MARK A. ROBINSON**  
**PRIMARY EXAMINER**